

Appl. Serial No.: 10/018,896
Attorney Docket No.: FA1047

REMARKS

Status of the Application

As per the Office Action mailed October 8, 2003, Claims 10-33 are pending in the application. More specifically, Claim 10 stands as rejected under the doctrine of obviousness-type double patenting; and Claims 10-32 stand as rejected under 35 U.S.C. §103.

In this response, Applicants have amended Claim 10 solely to further clarify and define the type of radiation utilized in conjunction with the embodiment(s) of the present invention.

Elections/Restrictions

The Examiner issued a Restriction Requirement with respect to Group I, Claims 10-32 drawn to a method of coating (classified in class 427, subclass 142) and Group II, Claim 33 drawn to a coated object (classified in class 428).

The Examiner indicates that a provisional restriction without traverse was made by Hilmar Fricke on September 30, 2003 to prosecute the invention of Group I, Claims 10-32. Additionally, Claim 33 has been withdrawn from further consideration by the Examiner as being drawn to a non-elected invention.

Applicants hereby affirm the election to prosecute the invention of Group I, Claims 10-32 drawn to a method of coating.

Double Patenting

Claim 10 stands as rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent 6,531,189 (Blatter et al.). The Examiner asserts that although the conflicting claims are not identical, they are not patentably distinct from each other because the application and infrared curing of the powder coating of the patent is inclusive of the smaller area requiring curing in the instant application.

U.S. Patent No. 6,531,189 is owned by the assignee of the present Application. A Terminal Disclaimer is being filed herewith. Accordingly, Applicants request that the double patenting rejection be withdrawn.

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Rejection under 35 U.S.C. §103

Claims 10-32 stand as rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 4,960,611 (Fujisawa et al.).

Applicants believe the Examiner's assertion that Fujisawa et al. teach a method of repairing a defect on a multi-layer automotive paint coating (col.1, lines 10-20) by applying a powder coating to a defective area and using infrared radiation to melt and cure the powder coating (col.2, line 32; col. 3, lines 14-18; col. 7, line 20) is incorrect because its subject matter is fundamentally different than that of the embodiments of the present invention. Fujisawa et al. describe the use of a repair coating composition to fill minute defects in a coating which arise from adhesion of dust particles, oil droplets or the like. The repair coating composition of Fujisawa et al. can be a solid or semisolid composition (see column 3, lines 3-4). This repair composition fills the cavity when it is placed so as to cover the cavity, where a laser or electron beam is projected onto the composition over an area generally corresponding to the cavity to melt the composition. As used in Fujisawa et al., the term "solid coating composition" is interpreted to include the semisolid composition (see column 3, lines 15-16). Fujisawa et al. state only that the preferred solid coating composition is one that is not flowable at room temperature, but becomes flowable on melting when exposed to an adjusted output of laser or electron beam (see column 3, lines 15-19). Moreover, Fujisawa et al. state that when the solid or semisolid coating composition has a tacky surface, the composition becomes convenient to handle if affixed to a backing sheet having no coating forming ability (see column 3, lines 39-43). Another embodiment described by Fujisawa et al. utilizes a pelletized repair coating composition prepared by the compression molding of a powder or thermally meltable coating composition, wherein the coating composition is placed over the cavity (see column 7, lines 14-25). Additionally, Figures 1(a)-1(f) and Figures 4(a)-4(b) clearly provide evidence that Fujisawa et al. only describe a film or composition having a sheet-like configuration. Thus, it is clearly evident that the above-described configurations (including the Figures) disclosed by Fujisawa et al. teach and suggest only the use of a sheet material, wherein this material must be subject to a laser in order to fill the cavity of the defect, due to a lack of flowability, and do not provide any indication that the use of a powder coating is taught, suggested or contemplated.

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In direct contrast to Fujisawa et al., the method of the present application relates to repairing defective areas in stoving lacquer coatings, wherein the defective area ready for repair lacquering is coated with a powder coating composition, and the applied powder coating is then melted and cured by irradiation with near infrared radiation, produced by near infrared radiators as provided in amended Claim 10.

With respect to flowability, while the powder coating particles themselves do not exhibit such a property, the powder coating as a whole does possess this property, which is evidenced by the fact that the powder coating may be mechanically applied by sprinkling, brush application, application by painting, or spraying (see the present application page 9, lines 7-17). This property is in contradiction to the solid or semisolid composition described by Fujisawa et al., in that they have not taught such methods for its application, as is specifically shown in Figures 1(a)-(f) and 4(a)-(f), where a sheet or film configuration is used.

With respect to the assertion that Fujisawa et al. suggest the present invention through their use of the pelletized repair coating composition, Applicants believe that Fujisawa et al. actually teach away from the present invention. More specifically, as noted above, Fujisawa et al. teach that a powder is to undergo compression molding so that the resulting mold can be placed over the cavity (see Figures 4(a)-(f) and column 7, lines 19-22). However, the present invention utilizes a powder coating, and so compression molding would not be desired in its embodiments.

Additionally, the embodiments of the present invention can be used to repair either horizontal or vertical surfaces, wherein these surfaces can be coated with the powder coating composition (see the present application on page 9, lines 7-17). However, this is not taught or suggested by Fujisawa et al. since their method is implicitly incapable of matching the versatility of the present invention. Since a laser is utilized to melt the repairing composition in Fujisawa et al. such that the laser causes the melted composition to flow into the defect cavity, if used on a vertical surface, gravity would cause the melting repair composition to flow downward instead of into the defect cavity.

Thus, since Fujisawa et al. do not provide any guidance, incentive or suggestion to result in the present invention, Applicants believe that Claim 10 as well as Claims 11-32 (which all ultimately depend from Claim 10) to be patentable.

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Accordingly, the Applicants respectfully request that this rejection be withdrawn by the Examiner.

SUMMARY

In view of the foregoing amendments and remarks, Applicants believe the stated grounds of rejection have been properly traversed, accommodated, or rendered moot and that a complete response has been made to the Non-Final Office Action mailed October 8, 2003. Applicants believe that the application stands in condition for allowance with withdrawal of all grounds of rejection. A Notice of Allowance is respectfully solicited. If the Examiner has questions regarding the application or the contents of this response, the Examiner is invited to contact the undersigned at the number provided below.

Applicants believe there is a fee due for a three-month extension of time of the period for reply and authorization is hereby given to charge the fee to Deposit Account No. 04-1928 (E.I. du Pont de Nemours). Should a fee or credit be unaccounted for, please charge or credit such fee to Deposit Account No. 04-1928 (E.I. du Pont de Nemours). Furthermore, if any further extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account No. 04-1928.

Respectfully submitted,



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